

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING
amendment of ARM 38.5.3301,	)	ON PROPOSED AMENDMENT
38.5.3302, 38.5.3320, 38.5.3330,	)	AND REPEAL
38.5.3331, 38.5.3332, 38.5.3334,	)	
38.5.3335, 38.5.3336, 38.5.3339,	)	
38.5.3350, 38.5.3353, 38.5.3360,	)	
38.5.3361, 38.5.3362, 38.5.3371,	)	
and repeal of ARM 38.5.3333,	)	
38.5.3337, 38.5.3338, 38.5.3341,	)	
38.5.3343, 38.5.3352, and 38.5.3370,	)	
all pertaining to Telecommunications	)	
Service Standards	)	

TO: All Concerned Persons

1. On August 29, 2006, at 1:30 p.m., a public hearing will be held in the Bollinger Room, Public Service Commission (PSC) offices, 1701 Prospect Avenue, Helena, Montana, to consider the amendment and repeal of the above-stated rules.

2. The PSC will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the PSC no later than 5:00 p.m., August 22, 2006, to advise us of the nature of the accommodation that you need. Please contact Connie Jones, PSC Secretary, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, telephone number (406) 444-6170, TTD number (406) 444-6199, fax number (406) 444-7618, e-mail conniej@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

38.5.3301 PURPOSE (1) Section 69-3-201, MCA, requires every public utility to furnish reasonably adequate service and facilities. The purpose of these rules is to establish certain minimum standards for determining if regulated telecommunications service provided on a retail basis is adequate. The commission will liberally construe these rules and may require additional standards when necessary to provide adequate service.

(2) Except as may be otherwise provided in a specific rule, these ~~These~~ service rules apply to any carrier operating in Montana and subject to the commission's jurisdiction.

(3) If the application of any rule results in an unreasonable hardship to a carrier or a customer, either may apply for waiver ~~under ARM 38.2.305~~ of the rule.

AUTH: 69-3-103, MCA  
IMP: 69-3-102, 69-3-201, MCA

Rationale: The amendments are reasonably necessary to clarify the applicability of these rules.

38.5.3302 DEFINITIONS In the interpretation of these rules, the following definitions shall be used:

(1) ~~"Automatic dialing--announcing device" means any automatic terminal equipment which is capable of:~~

~~(a) storing numbers to be called or producing numbers to be called using a random or sequential number generator, and with the ability to call such numbers, and;~~

~~(b) delivering a prerecorded message to the number called with or without manual assistance.~~ "Billing aggregator" has the meaning as provided in 69-3-1302(2), MCA.

(2) remains the same.

(3) "Carrier" means any local exchange carrier, interexchange carrier, operator service provider, inmate calling provider, or other telecommunications provider which provides regulated telecommunications services pursuant to 69-3-803, MCA. The term does not include a rural cooperative carrier or a wireless carrier.

(4) remains the same.

(5) "Channel" means a path for telecommunications between two or more customers or central offices.

(6) "Competitive local exchange carrier" means a carrier providing regulated local exchange service through any means, but is not the incumbent local exchange carrier.

~~(6)~~ (7) "Customer" means any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other legal entity which has applied for, been accepted, and is currently receiving telecommunications service.

~~(7)~~ (8) "Customer trouble report" means any oral or written report from a customer or user of telecommunications services relating to a physical defect or to difficulty or dissatisfaction with the operation of the utility's facilities. ~~One report shall be counted for each oral or written report received even though it may duplicate a previous report or merely involve an inquiry concerning progress on a previous report.~~

~~(8)~~ (9) "Exchange" means a service area established by an incumbent local exchange carrier for the administration of telecommunications services in a specified area for which a separate local rate schedule is provided. It may consist of one or more central offices together with associated plant facilities used in furnishing telecommunications services in that area. An exchange has one point designated for the purpose of rating toll calls for all subscribers in the exchange.

~~(9) "Exchange carrier" means a telecommunications utility that provides local exchange service.~~

~~(10) "Flat rate service" means telecommunications service furnished at a fixed monthly recurring charge.~~

~~(11) "Grade of service" means the number of customers served on a telecommunications channel such as one-party, two-party, four-party, etc.~~

(10) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the Exchange Carrier Association pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of the Exchange Carrier Association.

(11) "Installation order" means a request for new or transferred primary or additional residential or business service, but does not include change orders or requests for features to be added to existing service.

~~(12) through (14) remain the same.~~

~~(15) "Local exchange service" means telecommunications service provided within local exchange service areas in accordance with the tariffs. It includes the use of exchange facilities required to establish connections between customer locations within the exchange and between customer locations and interexchange trunks serving the exchange.~~

~~(16) remains the same.~~

~~(17) "Nonregulated services" means telecommunications services that are not regulated by the commission or that have been deregulated under the provisions of the Montana Telecommunications Act.~~

(17) "Out of service trouble report" means a trouble report concerning no dial tone, an inability to make or receive calls, or a deterioration of transmission quality to the point that communication is not workable.

~~(18) "Primary service order" means an application for voice grade telecommunications service to be provided at a customer location which does not have telecommunications service.~~

~~(19) "Private line" means a channel provided to furnish telecommunications service between two or more customer locations, and not having connection with central office switching apparatus.~~

(18) "Service provider" has the meaning as provided in 69-3-1302(7), MCA.

~~(19) "Tariff" means the entire body of rates, tolls, rentals, charges, classifications, and rules filed by the carrier and approved by the commission.~~

~~(20) "Tariff" means the entire body of rates, tolls, rentals, charges, classifications and rules filed by the carrier and approved by the commission.~~

~~(21) "Telecommunications utility" means any person, firm, partnership or corporation engaged in the business of furnishing telecommunications services to the public by the authority of and under the jurisdiction of the Montana public service commission.~~

~~(22) "Traffic" means telecommunications volume, based on number of calls and duration of messages.~~

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: The amendments are reasonably necessary to update the existing definitions and eliminate definitions of terms that no longer exist in the amended rules.

38.5.3320 DATA TO BE FILED WITH THE COMMISSION (1) ~~Exchange maps.~~ In addition to tariffs as required by 69-3-301, MCA, each incumbent local exchange carrier must file with the commission a map showing the boundaries of the local exchange service area and showing base rate area and zone boundaries from which all customer locations can be determined and mileage or zone charges quoted for each exchange within the state. Boundary lines must be located by appropriate measurement to an identifiable location if not otherwise located on section lines, waterways, railroads, roads, etc. Maps must include location of highways, section lines, geographic township and range lines, railroads, and waterways outside municipalities and show the map scale and other detail. An exchange map and the applicable rates for local service must be available at the business office serving the exchange area. ~~Each exchange carrier filing an original or revised map shall submit proof of notice of the proposed boundary to any other telecommunications utility adjoining the area in which a boundary line is to be established or changed.~~

(2) ~~Service reports.~~ Each carrier must furnish to the commission, at such times and in such form as the commission requires, the results of any service-related tests, summaries or records in its possession. The carrier ~~shall~~ must also furnish the commission with any information concerning the utility's facilities or operations which may be requested.

(3) ~~Service disruption reports.~~ Each facilities-based carrier must report promptly to the commission and to a the nearest radio station or other local news media any specific occurrence or development which disrupts the service of a substantial number of its customers (the smaller of 25 percent or 100 customers) for a time period in excess of two hours. This rule shall not apply to interexchange carriers in the case of an outage affecting local service.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: The amendments are reasonably necessary to clarify that the exchange map filing requirement applies to incumbent local exchange carriers only. The notification requirements for boundary changes are not necessary because the rarely-filed exchange map revisions that might be proposed are filed with and noticed by the commission, a process which provides other carriers with the opportunity to comment. The amendments are reasonably necessary to remove

internal catchphrases, which are not allowed in Montana administrative rule formatting (see, ARM 1-2-215).

38.5.3330 RATE AND SPECIAL CHARGES INFORMATION (1) Each carrier whose tariff or price list is filed with the commission must have its tariff or price list available for viewing at each business office. If the carrier has no local business office in Montana, the Montana tariff or price list must be posted on its website.

(2) ~~The exchange~~ A carrier must provide all information and assistance needed by applicants, customers, or others to determine the lowest cost telecommunications service available from the ~~exchange~~ carrier that meets their stated needs. The ~~exchange~~ carrier must ~~immediately provide a commission approved catalog of available services and prices~~ written rate information in response to all service orders, at the request of customers, and as otherwise required by the commission.

~~(a)~~ (3) Prior to taking any action or offering any service, the local exchange carrier must notify customers of any connection charge or other charge and must provide an estimate of the initial bill for flat monthly services and other applicable charges. The carrier shall inform the customer whether or not taxes and other fees are included in the estimate.

~~(2)~~ (4) The carrier must offer to give an applicant a written estimate of special charges for services not established by tariff, such as construction charges, which are levied on an actual cost basis.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: The substantive amendments are, for the most part, existing requirements that have been moved to this rule and are reasonably necessary to ensure public availability of tariff or price list information. The amendments are also reasonably necessary to expand applicability of the rate information parts of the rule to all regulated carriers.

38.5.3331 BUSINESS OFFICES AND TOLL-FREE TELEPHONE INFORMATION (1) Each carrier, billing aggregator, and service provider, ~~operator service provider and inmate calling provider~~ must have at least one business office to provide customers and others with access to personnel who can provide information on services and rates, accept and process service applications, explain customers' bills, adjust errors, and generally represent the ~~carrier~~ entity. If one business office serves several exchanges or states, toll-free calling to that office must be provided and the office must be staffed during Montana business hours.

(2) ~~Exchange~~ Local exchange carriers which provide billing services for other carriers, billing aggregators, or service providers shall include in such bills the toll-free telephone numbers of such carriers or service providers or alternatively, the

toll-free numbers of their billing aggregators, which are provided to the local exchange carriers in accordance with (3).

(3) Carriers, billing aggregators, or service providers which bill through local exchange carriers are required to provide the toll-free telephone numbers required in (1) to all such local exchange carriers. ~~Such carriers may also provide the toll-free telephone number of their billing agent.~~

(4) Local exchange Exchange carriers and billing aggregators must provide a carrier's or service provider's toll-free number to a customer, upon request, at no charge, for any entity for which it bills.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: The amendments are reasonably necessary to update the rule to reflect changes in state law regarding billing entities that have occurred since the original rule was adopted.

38.5.3332 CUSTOMER BILLING (1) Billing Carriers and billing aggregators are required to bill in accordance with the following procedures: :

(a) ~~Typed or machine-printed bills~~ Bills must be issued monthly, unless ~~there are no charges during the month~~ the carrier has obtained the customer's consent for bills to be issued on an alternative billing schedule.

(b) Residential and single-line business bills must itemize ~~by tariff element~~ the charges for all services and products. The bill must clearly provide the following information:

(i) through (iii) remain the same.

(iv) a statement that ~~regulated services~~ local exchange service may not be disconnected for nonpayment of ~~nonregulated~~ unregulated services, toll services, or services provided by other carriers, except ~~for other carriers' regulated services that cannot be disconnected or discontinued separate from local service~~ when a local exchange carrier's local, toll, or unregulated services are combined into one service package at a single rate;

(v) remains the same.

(c) If ~~an~~ a local exchange carrier bills and collects for any interexchange carrier, including itself, all toll calls must be itemized showing the date, the time, the length in minutes, discounts if applicable, and the destination of the call, unless the customer has subscribed to a service option which does not require itemization of each call. For collect and/or third party calls, the point of origin and the telephone number of origin must be stated.

(d) Upon request, a carrier must notify the commission of the name and address of all entities for which it provides billing and collection services. If an a local exchange carrier bills and collects for an interexchange another carrier or service provider, the two carriers/entities must establish an efficient method of resolving customer disputes. The local exchange carrier must, upon request, be able to provide the customer with the name, address, and telephone number of an

~~interexchange carrier employee or the other carrier's or service provider's~~  
department responsible for customer dispute resolution.

(e) Charges contained in telephone bills must be accompanied by a brief, clear, nonmisleading, plain-language description of the service rendered. If the bill includes charges from an entity that did not bill the customer for service during the customer's previous billing cycle, the name of the new provider and the charges billed must be printed in a clear and conspicuous manner.

~~(e)~~ (f) If a customer has subscribed to local measured service, the bill must detail any and all charges in excess of the basic local measured service monthly charge, including, at a minimum, the total minutes and total charges in each rate category.

(2) ~~Inaccurately billed service.~~ If telecommunications service has been underbilled because of the carrier's error, omission, or negligence and the amount owed exceeds \$25, the carrier must offer the customer a reasonable payment arrangement. If telecommunications service has been overbilled, the carrier must credit the customer's future bills for the amounts overbilled, unless the customer requests a cash refund of the credit balance. In either case (underbilling or overbilling), the carrier shall abide by the applicable statute of limitations, and 69-3-221, MCA.

(3) ~~Service interruption.~~ If a customer's service is interrupted for any reason other than the customer's negligence or willful act and service remains out for more than 24 hours after being reported, appropriate adjustments shall be made to the customer's bill upon determination of the outage. For the purpose of administering this rule, every month is considered to have 30 days.

(4) ~~Billing dispute.~~ The carrier may require the customer to pay the undisputed portion of the bill to avoid discontinuance of service for nonpayment. The carrier must investigate the dispute and report the result to the customer. If the billing dispute is not resolved, the carrier must advise the customer that the commission is available for review and disposition of the matter.

(5) ~~Billing. Telecommunications Local exchange service regulated by the Montana public service commission cannot be denied or terminated because of nonpayment of for nonregulated unregulated services, toll services, or services provided by other carriers, except for other carriers' regulated services that cannot be disconnected or discontinued separate from local service. A telecommunications provider's carrier's bill to its customer shall clearly distinguish between regulated and nonregulated unregulated service. Regulated and nonregulated service may appear on the same bill but must be presented as separate line items.~~

(a) Undesignated partial payments of a bill shall be applied first to local exchange carrier regulated local exchange services and then to service other than local exchange carrier regulated local exchange services in such percentage as each other service provider's charges represent of the total charges to the customer for services other than local exchange carrier regulated services. ~~Regulated service may not be affected by billing disputes over nonregulated service or service provided by other carriers.~~

(6) ~~Late billing.~~ If a carrier bills a customer for a service more than 60 days after the service is provided and the customer contacts the carrier (or its billing agent) to question or dispute the late-billed charges, the carrier (or its billing agent) must offer the customer a payment plan that allows an equal period of time to pay the late-billed charges as it took the carrier to bill the customer. During this period, late payment charges must not be assessed on the late-billed service charges, and the carrier is prohibited from taking any collection actions against the customer other than monthly notice by mail of the unpaid charges. Any such monthly notice must not threaten any further collection action, and ~~must contain a verbatim statement of this subsection~~ inform the customer that the carrier will arrange a payment plan in accordance with this rule upon customer request.

(7) All carriers are prohibited from charging any amount for incomplete or unanswered calls.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, 69-3-221, MCA

Rationale: The amendments are reasonably necessary to update the rule to reflect changes in state law or in carrier and customer billing options since the original rule was adopted, including a new truth-in-billing provision and provisions to prioritize maintenance of local phone service.

38.5.3334 CUSTOMER DEPOSITS FOR TELECOMMUNICATIONS SERVICES (1) Deposit requirements for business and residential service must comply with ARM 38.5.1101, et seq. A carrier may not collect a deposit in order to initiate local exchange service to a subscriber who participates in the Montana Telephone Assistance Program and who has also subscribed to toll blocking, except that a deposit may be required for optional local calling features and services subscribed to by the program participant.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: The new language is reasonably necessary to bring the rule into compliance with federal Lifeline program requirements.

38.5.3335 COMPLAINTS AND APPEALS (1) ~~Complaints~~ All carriers must promptly investigate customer complaints and inform the customer of proposed action. If requested, the carrier must provide a written statement of its action on the complaint.

(2) ~~Appeals.~~ A carrier must inform a customer that a review by supervisory personnel of an unfavorable action on a bill or complaint is available. If requested the carrier must provide a written statement of the supervisor's action on the complaint. The written statement must also inform the customer that commission review is available and provide the commission's telephone number and address.

(3) remains the same.



AUTH: 69-3-103, MCA  
IMP: 69-3-102, 69-3-201, MCA

Rationale: The amendments are reasonably necessary to remove internal catchphrases, which are not allowed in Montana administrative rule formatting per ARM 1.2.215.

38.5.3336 DIRECTORIES (1) An incumbent local exchange carrier must provide its customers telephone directories at regular intervals (not to exceed 18 months), listing all customers' names, addresses, and telephone numbers, except public telephones, addresses, and telephone service not published at the customer's request.

(2) The Each local exchange carrier must list its customers (except those customers requesting otherwise) with the directory assistance operators within three business days of service connection. If directory assistance (DA) is provided by another company, the local exchange carrier must submit the DA listing updates to the DA provider within three business days and the DA provider must update its listings within the following three business days.

(3) Upon issuance, a copy of each directory shall be distributed free to all customers served by that directory ~~and to the commission~~. Free copies shall also be made available to any public library in the state requesting a directory. ~~In the case of hotels, motels and other multi-line locations, one directory per access line or up to two directories for each installed station will be provided at no charge, upon request.~~

~~(4) The name of the exchange carrier, the area included in the directory and the month and year of issue must appear on the front cover. Information pertaining to emergency calls, such as for the police and fire departments, must be conspicuously printed on the inside front cover of the directory.~~

(5) ~~(4)~~ The directory must contain instructions on placing local and long distance calls, calls to repair and directory assistance services, and locations and telephone numbers of exchange carrier business offices within the appropriate service area.

~~(6) (5)~~ Exchange Incumbent local exchange carriers shall make available at a reasonable charge space in the front part of the directory for interexchange other carriers' information and rates ~~on long-distance calling, directory assistance, operator services, discount periods, billing inquiries, etc.~~

~~(7) (6)~~ Each directory must contain, in the instructional section, the commission's address and telephone number and an explanation of the customer's right to bring complaints and inquiries to the commission.

~~(8) (7)~~ If there is an error in the directory listing for a customer, the local exchange carrier must intercept all calls to the listed number at no charge, for six months or until a new directory is published, whichever occurs first. Alternatively, the local exchange carrier may forward all calls to the listed number to the correct number. If there is an error or omission in the name listing of a customer, the correct

name and telephone number must be placed in the files of the directory assistance and/or intercept operators and the correct number furnished the calling party upon request or interception. Competitive local exchange carriers are exempt from this requirement if technically unable to comply with it.

~~(9) If a customer's telephone number is changed after a directory is published, the exchange carrier must offer to intercept all calls to the former number for a reasonable period of time and give the calling party the new number unless the customer directs otherwise.~~

~~(10)~~ (8) When additions or changes in plant or changes to any other local exchange carrier operations necessitate changing telephone numbers to a group of customers, reasonable notice must be given to all affected customers.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: The amendments are reasonably necessary to clarify that only incumbent local exchange carriers must provide directories to their customers, to remove unnecessarily detailed requirements regarding directory format and distribution, to clarify that all local exchange carriers must list their customers with directory assistance, to provide an alternative method for local exchange carriers to mitigate directory listing errors, and to recognize that competitive local exchange carriers may be technically unable to provide intercept services. Elimination of (9) is reasonably necessary because it is appropriately the responsibility of a customer who changes his or her telephone number, for whatever reason, to make arrangements for discretionary call intercept services until a new directory is issued.

38.5.3339 TERMINATION OF SERVICE (1) A carrier may interrupt service without notice only in emergency situations, if the service has been abandoned by the customer, or if the service was obtained without the carrier's authorization.

(2) ~~Grounds for termination.~~ Subject to the requirements of these rules, telecommunications services may be discontinued, after notice, as provided in ARM 38.5.3339(5), for the following reasons:

(a) through (e) remain the same.

(3) ~~Grounds that do not support termination. None of the following constitute sufficient grounds for discontinuing regulated local exchange service. A carrier may neither terminate nor refuse to provide regulated local exchange service based on the following:~~

(a) The failure of any person, other than the customer against whom termination is sought, to pay any charges due to the ~~telecommunications utility~~ carrier.

(i) remains the same.

(b) remains the same.

(c) Failure to pay for ~~nonregulated~~ unregulated service or service provided by other carriers, except when the unregulated service was part of a local exchange carrier's service package that combined its local, toll, or unregulated services at a single rate.

- (4) remains the same.
- (5) Notice of termination of service must comply with the following.
  - (a) through (b) remain the same.
  - (c) If a customer, to avoid disconnection, enters into a deferred payment agreement with a carrier, then fails to comply with the terms of the agreement, the carrier may terminate service to the customer without further notice.
  - (6) ~~Exception to seven-day notice requirement, excessive toll usage accompanied by risk of nonpayment.~~ Excessive toll usage accompanied by a risk of nonpayment justifies an exception to the seven-day notice requirement. The seven-day notice requirement shall be excused when service is to be terminated for excessive toll usage and an identifiable risk of nonpayment exists, as defined herein.
    - (a) ~~Toll usage.~~ For purposes of this rule ~~toll usage~~ "toll usage" includes regulated toll charges whether already billed or as yet unbilled, but excludes all amounts owed or owing for nonregulated services or services provided by other carriers, except for other carriers' regulated services that cannot be disconnected or discontinued separate from local service.
    - (b) ~~Excessive toll usage.~~ For purposes of this rule, "excessive toll usage" is ~~defined as toll usage for an estimated one month billing period that:~~
      - (i) and (ii) remain the same.
    - (c) ~~Risk of nonpayment.~~ For purposes of this rule, "risk of nonpayment" is established by the presence of any one of the following:
      - (i) ~~No deposit.~~ Risk of nonpayment exists when there is no customer deposit and ARM 38.5.1103 permits the requirement of such a deposit; or
      - (ii) ~~Historical deficiency.~~ Risk of nonpayment exists when, during the preceding 12 months, any of the following conditions existed:
        - (A) through (C) remain the same.
    - (d) ~~Contact with customer.~~ The carrier shall not terminate service under the provisions of this rule without first contacting or making a diligent effort to contact the customer. Such contact will be for the purposes of:
      - (i) through (iii) remain the same.
    - (e) ~~Adequate assurance of payment.~~ For purposes of this rule, ~~adequate assurance shall include~~ "adequate assurance of payment" includes:
      - (i) through (iii) remain the same.
    - (f) ~~Termination of service.~~ If the carrier is unable to contact the customer ~~it~~ the carrier may terminate service three days (not including those days when there is no mail delivery) after the mailing of a notice consistent in form with the requirements of ARM 38.5.3339(5). If the carrier is able to contact the customer and no adequate assurance is supplied, the carrier may terminate service not less than 24 hours after such contact.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: The amendments are reasonably necessary to identify and provide a resolution for certain situations that may arise concerning service termination.

38.5.3350 CONSTRUCTION (1) ~~Engineering and construction standards.~~  
In determining standard engineering and construction practice, the commission will

be guided by the provisions of the American National Standards Institute, the National Electrical Code, the National Electrical Safety Code, the ~~exchange carriers standards association~~ Exchange Carriers Standards Association, the ~~rural electrification administration~~ Rural Electrification Administration, and such other codes and standards as are generally accepted by the industry, except as modified by this commission or by municipal regulations within their jurisdiction. The telecommunications plant shall be designed, constructed, maintained and operated in accordance with these standards, and in such manner to best accommodate the public, and to prevent interference with and from service furnished by other public utilities insofar as practical. The carrier shall design and construct the telecommunications facilities to reduce or prevent electromagnetic interference from AC power systems. The carrier shall engage in prior coordination with power utilities in the area before placing new plant or making major changes in existing plant likely to be impacted by the power utility's facilities. Such coordination shall be governed by the latest issue of ANSI/IEEE 776 Guide for Inductive Coordination of Electric Supply and Communications Lines.

~~(2) Automatic number identification. Exchange carriers shall have as an objective the provision of automatic number identification in all exchanges. All exchange carriers shall file a report with the commission within six months following adoption of this rule, and every six months thereafter, including the status of current exchanges and plans to comply with this provision.~~

~~(3) Party line service. Where party line service is provided, no more than four customers shall be connected to any one channel, unless such action is approved by the commission. The exchange carrier may regroup customers in such a way as may be necessary to carry out the provisions of this rule. Upon completion or delay in the meeting of this requirement a report to that effect shall be filed with the commission.~~

~~(4) Selective carrier denial. Exchange carriers shall have as an objective the provision of selective carrier denial in all exchanges. All exchange carriers shall file a report with the commission within 18 months following adoption of this rule, and every 6 months thereafter, including progress towards compliance and timetable for completion of implementation.~~

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: Elimination of (2), (3), and (4) is reasonably necessary because they are unnecessary and outdated -- automatic numbering identification and selective carrier denial are deployed throughout the state and party-line service is an anachronism.

38.5.3353 NETWORK INTERFACE (1) Each local exchange carrier providing service by means of its own facilities to the customer's location shall establish a point of demarcation between the utility facilities and a customer's premises wiring and equipment. It shall be the responsibility of the utility to install and maintain a network interface device (NID) in accordance with commission

guidelines, the local exchange carrier's tariff, and with rules established by the ~~federal communications commission~~ Federal Communications Commission.

(2) and (3) remain the same.

~~(4) For simple one- and two-line business and residence service, all wiring on the customer's premises shall connect to the telephone network through a NID.~~

~~(5) A NID shall be installed on all new services when a visit to the customer premises is necessary to establish service. For party line services a selective ringing module will be installed.~~

~~(6) Work load permitting, a NID, and selective ringing module where appropriate, shall be installed on all maintenance visits to a customer premises.~~

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: Amendment to this rule is reasonably necessary to clarify applicability and eliminate unnecessary network interface device installation requirements.

38.5.3360 CUSTOMER TROUBLE REPORTS (1) Each carrier shall provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of and response to all complaints. The ~~telecommunications utility carrier~~ shall maintain an accurate record of trouble reports made by its customers for a period of two years. This record shall include appropriate identification of the customer or service affected, the time, date, and nature of the report, the action taken to clear trouble or satisfy the complaint, and the date and time of trouble clearance or other disposition. This record shall be available to the commission or its authorized representatives upon request at any time within the period prescribed for retention of such records. Trouble reports shall be cleared in accordance with service objectives listed in ARM 38.5.3371(7) ~~of these rules~~.

(2) and (3) remain the same.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: Amendment of this rule is reasonably necessary to make language among these rules consistent.

38.5.3361 INSPECTIONS AND TESTS (1) Each carrier providing services by means of its own facilities shall adopt a program of periodic tests, inspections, and preventive maintenance aimed at achieving efficient operation of its system and the rendition of safe, adequate and continuous service.

(2) Each facilities-based carrier shall maintain or have access to test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities, both for routine maintenance and for trouble location. The actual transmission performance of the network shall be monitored in order to

determine if the carrier's established objectives and operating requirements are met. This monitoring function shall consist of, but not be limited to, circuit order tests prior to placing trunks in service, routine periodic trunk maintenance tests, tests of actual switched trunk connections, periodic noise tests of a sample of customer loops in each exchange, and transmission surveys of the network.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: Amendment of this rule is reasonably necessary to clarify the rule's applicability.

38.5.3362 SERVICE INTERRUPTIONS (1) In the event that service must be interrupted for over four hours for planned work on the facilities or equipment, the work shall be done at a time which will cause minimal inconvenience to customers. ~~Emergency service shall be available, as required, for the duration of the interruption.~~ In the event that local exchange service must be so interrupted, the local exchange carrier shall attempt to notify each affected customer at least 24 hours in advance of the interruption.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: Amendment of this rule is reasonably necessary because it has never been clear how a carrier could provide emergency phone service when service in an area is interrupted due to planned work.

38.5.3371 SERVICE OBJECTIVES AND SURVEILLANCE LEVELS REQUIREMENTS (1) These rules establish required service objectives quality requirements for local exchange carriers providing service by means of their own facilities. ~~The rules include surveillance levels which indicate a need for the telecommunications utility to investigate, take appropriate corrective action, and provide a report of such activities to the commission.~~ The telecommunications utility carrier shall be expected to meet generally accepted industry standards for quality on any service provided by the telecommunications utility carrier that is not covered by these rules.

(2) ~~Service measurements. Each carrier shall make regular, periodic measurements to determine the level of service for each item included in these rules. Measurements and summaries thereof for any of the items included herein shall be provided upon request of the commission or its representatives. Records of these measurements and summaries shall be retained by the telecommunications utility for a period of at least two years. Based on commission receipt of consumer complaints or other relevant information about the level of service being provided by a carrier to which these service quality requirements apply, the commission may require the carrier to begin documenting its compliance with any or all of these service requirements and providing periodic service quality reports containing such~~

documentation to the commission. If a carrier is required by the commission to provide records or documentation regarding its compliance, the records or documentation must be reported on individual exchange and statewide aggregate bases.

(3) Installation of service. Regarding installation of local exchange service, the carrier shall complete 95 percent of its installation orders within five business days of the application date, excluding those orders where the customer specifically requests a later due date. Ninety-five percent of the orders where the customer specifically requested a later due date must be completed on the customer-requested due date.

(a) Ninety percent of the exchange carrier's service order installations not requiring construction or special engineering shall be completed within three business days after appropriate pre-installation fees are paid. The intervals commence with the receipt of application (unless a later date is requested by the applicant). The carrier shall complete 100 percent of all orders for service installation, excluding those orders where the customer specifically requested a later due date, within 180 calendar days of the application date.

(i) Surveillance level: Eighty-five percent in an exchange area for a period of three consecutive months.

(b) Ninety-five percent of the exchange carrier's service orders requiring construction or special engineering shall be filled no later than 30 days after the customer has made such application (except where the customer requests a later date) after appropriate pre-installation fees are paid. In the event of the exchange carrier's inability to so fill such an order, the customer will be advised and furnished the date when it will be available.

(i) Surveillance level: Ninety percent in an exchange area for a period of three consecutive months.

(c) Each exchange carrier shall make commitments to customers as to the date of installation of all service orders. Ninety percent of such commitments shall be met (excepting customer caused delays and acts of God).

(c) Violations of the installation requirements do not exist if the carrier is unable to comply due to customer reasons, or work stoppages directly affecting provision of service in Montana, or other circumstances outside the carrier's control that can be documented by the carrier. A carrier may not exclude orders from this measurement in those instances where the installation required access to the customer's location and no access was available, but the carrier either did not schedule an installation appointment with the customer for on-premises access or did schedule an appointment, which may not exceed a four-hour appointment window, but did not arrive at the customer's premises at the appointed time.

(i) Surveillance level: Eighty-eight percent in an exchange area for a period of three consecutive months.

(d) A carrier shall not cancel customer installation orders at its own discretion. An installation order received by a carrier shall remain a pending order until the installation is completed or the customer requests cancellation at his or her own initiative or in response to the carrier's inquiry.

(4) ~~Operator handled calls.~~ Calls requiring timing shall be accurately timed. Each carrier shall maintain adequate personnel to provide an average operator answering performance on a monthly basis as follows:

(a) Eighty-five percent of toll and/or local assistance operator calls answered within ten seconds (equivalent measurements as approved by the commission may be used).

~~(i) Surveillance level: Eighty percent (or equivalent) for an answering location for a period of three consecutive months.~~

(b) Eighty percent of directory assistance and intercept calls shall be answered within ten seconds (equivalent measurements as approved by the commission may be used).

~~(i) Surveillance level: Seventy-five percent (or equivalent) at an answering location for a period of three consecutive months.~~

(5) ~~Network call completion requirements.~~ Sufficient central office and interoffice channel capacity and equipment shall be provided by the carrier to meet the following requirements during the average busy season, busy hour without encountering blockages, or equipment irregularities:

(a) Dial tone within three seconds on 98 percent of calls.

~~(i) Surveillance level: Ninety-seven and four tenths percent for a central office or remote switch for a period of three consecutive months.~~

(b) Proper completion of 97 percent of correctly dialed intraoffice calls.

~~(i) Surveillance level: Ninety-five percent for a central office or remote switch for a period of three consecutive months.~~

(c) Proper completion of 97 percent of correctly dialed interoffice calls within the local calling area.

~~(i) Surveillance level: Ninety-five percent for a central office or remote switch for a period of three consecutive months.~~

(d) Proper completion of 97 percent of correctly dialed interexchange toll calls.

~~(i) Surveillance level: Ninety-five percent for a central office or remote switch for a period of three consecutive months.~~

(6) ~~Transmission and noise requirements.~~ All facilities shall meet accepted industry design standards and shall conform to the following transmission and noise design parameters:

(a) ~~Subscriber lines.~~ Newly constructed and rebuilt subscriber lines shall be designed for no more than 8 dB transmission loss at 1000 + 20 Hz from the serving central office to the customer premises network interface. Subscriber lines shall be maintained so that transmission loss does not exceed 8 dB. Subscriber lines shall be designed and constructed so that metallic noise does not exceed 25 dB above reference noise level ("C" message weighting) on 90 percent of the lines. Subscriber lines shall be maintained so that metallic noise does not exceed 30 dB above reference noise level ("C" message weighting).

~~(b) PBX and multiline trunk circuits. PBX and multiline trunk circuits shall be designed and maintained so that transmission loss from the central office to the point of connection with customer equipment shall not exceed 5 dB (or 6.5 dB loss through a coupling device provided by the exchange carrier). These circuits shall~~



~~be designed and constructed so that metallic noise does not exceed 25 dB above reference noise level ("C" message weighting) on 90 percent of the lines. They shall be maintained so that metallic noise does not exceed 30 dB above reference noise level ("C" message weighting).~~

~~(c) Interoffice local calling area. Excluding calls between central offices in the same building, 95 percent of the measurements on interoffice calls within a local calling area shall have from 2 to 10 dB transmission loss at 1000 + 20 Hz and no more than 30 dB metallic noise above reference noise level ("C" message weighting). This measurement shall be made from the line terminals of the originating central office to the line terminals of the terminating central office.~~

~~(d) Interexchange toll calls. Ninety-five percent of the transmission measurements on interexchange calls, measured end-to-end, established via trunk-side access connections shall have between 3 and 9 dB loss at 1000 + 20 Hz, and shall have no metallic noise greater than 30 dB above reference noise level ("C" message weighting).~~

(7) Customer trouble reports regarding local exchange service must meet, at the minimum, the following requirements.

~~(a) Service shall be maintained by the carrier in such a manner that the monthly rate of all customer trouble reports, excluding reports concerning interexchange calls or nonregulated customer premises equipment, does not exceed six per 100 local access lines per month per exchange. For the purpose of administering this rule, each party line customer shall be considered to have one local access line.~~

~~(i) Surveillance level: Eight per one hundred local access lines per month per exchange for a period of three consecutive months.~~

~~(b) Ninety percent of out of service trouble reports shall be cleared within 24 hours, excluding Sunday (except where access to the customer's premises is required but not available, or where interruptions are caused by unavoidable casualties and acts of God affecting large groups of customers).~~

~~(i) Surveillance level: Eighty-five percent in an exchange area for a period of three consecutive months.~~

~~(c) The carrier shall provide to the customer a commitment time by which the trouble will be cleared. Ninety percent of the repair commitments shall be met (excepting customer caused delays and acts of God affecting large groups of customers).~~

~~(i) Surveillance level: Eighty-five percent in an exchange area for a period of three consecutive months.~~

(d) Carriers may charge customers for investigating trouble reports only when:

(i) dispatch of carrier personnel to the customer site is required;

(ii) the customer has been notified, prior to the dispatch, that a charge may apply;

(iii) the carrier is able to identify the exact nature of the problem that prompted the trouble report; and

(iv) the problem exists on the customer side of the service.

AUTH: 69-3-103, MCA  
IMP: 69-3-102, 69-3-201, MCA

Rationale: Amendment of this rule is reasonably necessary to clarify the rule's applicability, to make clear the standards established herein are requirements, not objectives, and to eliminate surveillance levels, which experience has shown do not provide a useful or effective tool for ensuring compliance with the standards. No longer mandating a carrier to make periodic service measurements is reasonably necessary in an effort to reduce burdensome requirements for carriers that provide service at a level that causes no concern for their customers or the commission. The service requirements for completion of installation orders are changed to simplify the rule by eliminating the distinction in the existing rule between routine service orders and orders requiring construction. The allowable installation intervals are longer, but the percentages of orders that must be completed within those time frames are higher. New provisions to clarify which orders may be excluded from the service measurements and that carriers may not cancel orders at their own discretion are added. Some service requirements that carriers have indicated are outdated are deleted. A new provision concerning when carriers may charge customers for trouble report investigation is added to extend to all local exchange carriers these requirements that now apply only to Qwest.

4. The rules proposed to be repealed are as follows, with the ARM page number at which the complete rule may be found identified:

38.5.3333 PUBLIC INFORMATION found at ARM page 38-879.

AUTH: 69-3-103, MCA  
IMP: 69-3-102, 69-3-201, MCA

Rationale: Repeal of this rule is reasonably necessary to avoid duplicative rules, as the requirements within it already exist in other rules or are being moved to other rules (e.g., public availability of rate information and exchange maps has been moved to ARM 38.5.3320).

38.5.3337 PAY TELEPHONES found at ARM page 38-889.

AUTH: 69-3-103, MCA  
IMP: 69-3-102, 69-3-201, MCA

Rationale: It is reasonably necessary to repeal this rule for a combination of reasons. As the PSC has determined in PSC Orders 6050a and 6051a in PSC Dockets D97.2.33 and D97.4.65, the first sentence of (1) and the entirety of (2) are untenable under the 1996 Telecommunications Act (federal) and related Federal Communications Commission payphone orders. The PSC has said those provisions would be eliminated in a future rulemaking. The rule provisions that

impose requirements for pay telephone equipment are being eliminated because pay telephones are customer-owned equipment not regulated by the PSC. The elimination of (7) is reasonably necessary because the requirements for local exchange carriers to conduct pay telephone inspections and file annual reports are unnecessarily burdensome. The remainder of the eliminated provisions are unnecessary because they are already requirements of either federal laws and rules or state laws and rules, or both.

38.5.3338 AUTOMATIC DIALING - ANNOUNCING DEVICES found at ARM page 38-890.

AUTH: 69-3-103, MCA  
IMP: 69-3-102, 69-3-201, MCA

Rationale: It is reasonably necessary to repeal this rule because automatic dialing-announcing devices are customer-owned equipment that are not regulated by the PSC and the rule's provisions are unenforceable because neither the local exchange carrier nor the PSC can know when these devices are connected to the telephone network.

38.5.3341 UNANSWERED CALLS found at ARM page 38-894.

AUTH: 69-3-103, 69-3-822, MCA  
IMP: 69-3-102, 69-3-201, 69-3-802, MCA

Rationale: Repeal is necessary to avoid duplication of rules, as this provision has been moved to the billing rule, ARM 38.5.3332.

38.5.3343 EMERGENCY CALL ROUTING found at ARM page 38-894.

AUTH: 69-3-103, 69-3-822, MCA  
IMP: 69-3-102, 69-3-201, 69-3-802, MCA

Rationale: Repeal of this rule is reasonably necessary in recognition of the fact that customers with emergencies call 911, not the operator.

38.5.3352 CONSTRUCTION WORK NEAR EXCHANGE CARRIER FACILITIES found at ARM page 38-910.

AUTH: 69-3-103, MCA  
IMP: 69-3-102, 69-3-201, MCA

Rationale: Repeal of this rule is reasonably necessary because laws commonly referred to as "call-before-you-dig" or "one-call" laws (e.g., 69-4-503, MCA) make this rule unnecessary.

38.5.3370 GENERAL found at ARM page 38-929.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

Rationale: Repeal of this rule is reasonably necessary because the inspections and tests rule (ARM 38.5.3361), as well as the general requirement that carriers meet industry-accepted standards, adequately addresses the concern that carriers provide sufficient equipment and resources.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments (original and ten copies) may also be submitted to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, and must be received no later than August 15, 2006, or may be submitted to the PSC through the PSC's web-based comment form at <http://psc.mt.gov> (go to "consumer assistance," "talk to us," "pending proceeding comments," then complete and submit the form) no later than August 29, 2006.

(PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-06.5.2-RUL.")

6. The PSC, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

7. The Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, phone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

8. The PSC maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the PSC. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: electric utilities, providers, and suppliers; natural gas utilities, providers, and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines, motor carriers, and rail carriers; and administrative procedures. Such written request may be mailed or delivered to Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Connie Jones at (406) 444-7618, e-mailed to [conniej@mt.gov](mailto:conniej@mt.gov), or may be made by completing a request form at any rules hearing held by the PSC.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ Greg Jergeson  
Greg Jergeson, Chairman  
Public Service Commission

/s/ Robin A. McHugh  
Reviewed by Robin A. McHugh

Certified to the Secretary of State, July 17, 2006.